

Message Text

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C O N F I D E N T I A L STATE 176601

FOL RPT JAKARTA 8698 ACTION SECSTATE INFO CANBERRA KUALA
LUMPUR MANILA NASSAU PORT MORESBY SINGAPORE TOKYO JUL 2

QUOTE: C O N F I D E N T I A L JAKARTA 8698

E.O. 11652: GDS
TAGS: PLOS ID
SUBJECT: LOS - INDONESIA

1. SUMMARY. MAJOR GOI PROPOSALS RE ARCHIPELAGO ARTICLES ARE:
SUBSTITUTE LINE INDICATING ARCHIPELAGIC PASSAGE ROUTE THROUGH
ARCHIPELAGO FOR SEA LANES OF SPECIFIED BREADTH; SPECIFY THAT
OVERFLIGHT RIGHT DOES NOT APPLY TO CIVIL AVIATION. PROPOSAL
TO CONFINE WARSHIP PASSAGE TO ARCHIPELAGIC LANES (OR ROUTES)
REFERRED TO BY MOCHTAR. ON STRAITS, GOI HOLDING OUR FOR
JAPANESE AGREEMENT ON TRAFFIC REGULATION FOR TANKERS THROUGH
MALACCA. GOI HOPES TO STAY OUT OF DEEP SEABEDS FRAY, AND
POSSIBLY OUT OF ZONE NEGOTIATION AS WELL. DJALAL IMPRESSED
BY VEHEMENCE OF REACTION BY US SCIENTISTS TO SCIENTIFIC
RESEARCH TEXT OF LOS INSTITUTE IN RHODE ISLAND. END
SUMMARY.

2.JUSTICE MINISTER MOCHTAR HOSTED FOUR-HOUR WORKING DINNER
FOR CHARGE, DEPT ASST LEGAL ADVISER OXMAN, AND RADM MORRIS
JUNE 30, AT WHICH AIR MARSHAL SUDARMONO AND AMB. DJALAL
PRESENT. OXMAN, MORRIS, AND POLCOUN MET WITH SUDARMONO AND
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DJALAL JULY 1.

3. OVERALL PROSPECTS FOR CONFERENCE: MOCHTAR FELT COMMITTEE I WAS A MESS. WHILE STRONGLY IMPLYING THAT LDC IDEOLOGICAL POSITIONS WERE UNREASONABLE, HE DOES NOT RPT NOT WISH TO GET GOI INVOLVED. HE SEES COMMITTEE I AS MAJOR OBSTACLE TO TREATY, AND DOES NOT SEE HOW PROBLEMS CAN BE RESOLVED IN SEVEN WEEKS. MOCHTAR AND DJALAL QUESTIONED US REGARDING THE SECRETARY'S PLANS TO ATTEND SUMMER SESSION. SUDARMONO SEEMS CONCERNED THAT CI MAY BLOCK TREATY WHEN VITAL GOI INTERESTS ARE IN CII. (THERE WAS NO RPT NO INDICATION THAT GOI SUBSTANTIVELY CONCERNED ABOUT CI BECAUSE OF FORTHCOMING LARGE INCO INVESTMENT AND POSSIBLE LARGE US STEEL INVESTMENT IN NICKEL PRODUCTION HERE. HOWEVER, IT IS NOTED THAT GOI TOOK HARDER LINE LDC STAND IN NAIROBI THAN IN THE PAST. AMEMBASSY JAKARTA UNAWARE OF ANY CANADIAN LOBBYING HERE.)

4. ARCHIPELAGO AND STRAITS: GENERAL. IT WOULD APPEAR FROM GENERAL GOI ATTITUDE THAT IS HAS ACCEPTED BASIC PREMISE OF UNIMPEDED ARCHIPELAGIC PASSAGE AND UNIMPEDED TRANSIT FOR STRAITS, INCLUDING SUBMERGED PASSAGE AND MILITARY OVERFLIGHTS IN BOTH CASES. THE MAJOR PROBLEM APPEARS TO BE THE BREADTH OF LINES FOR ARCHIPELAGIC PASSAGE, OVERFLIGHT OF SCHEDULED CIVIL AVIATION IN ARCHIPELAGO, AND THE TANKER POLLUTION PROBLEM IN STRAITS. IN PARTICULAR, WE NOTE THAT JUSTIC MINISTER MOCHTAR SPECIFICALLY STATED THAT WARSHIPS IN ARCHIPELAGIC PASSAGE WOULD BE TRANSITING IN FORMATION WITH AIR COVER.

5. ARCHIPELAGO: BREADTH OF SEA LANES. THE MOST IMPORTANT NEW DEVELOPMENT IN TALKS WAS GOI PROPOSAL THAT INSTEAD OF SPECIFIED BREADTH OF SEA LANE AND AIR ROUTE FOR ARCHIPELAGIC PASSAGE, FOR EACH ROUTE THROUGHT THE ARCHIPELAGO A LINE WOULD BE DRAWN INDICATING THE DIRECTION OF THE ROUTE AND THAT SHIPS/AIRCRAFT COULD TRANSIT AS FAR FROM LINE AS NECESSARY FOR PASSAGE. THE PURPOSE IS TO FIND A WAY AROUND CONTINUING DIFFERENCES BETWEEN GOI AND USG ON BREADTH OF SEA LANES AND AIR ROUTES TO BE SPECIFIED IN LOS CONVENTION. WHILE INDICATING THAT WE WOULD STUDY PROPOSAL CAREFULLY, BY WAY OF CONSIDERATION REGARDING HOW PROPOSAL WOULD WORK, WE MADE CLEAR OUR SERIOUS MISGIVINGS ABOUT POSSIBILITIES FOR DSIPUTE AND

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UNCERTAINTY INHERENT IN THIS APPROACH AND OUR PREFERENCE FOR MINIMUM SPECIFIED BREADTH FOR SEA LANES. SINCE OSTENSIBLE REASON FOR GOI PROBLEM WITH FIXED DISTANCE IS POLITICAL, I.E. LARGE NUMBERS, WE INQUIRED FOR PURPOSES OF CLARIFICATION WHETHER GOI OBJECTIVES COULD BE MET BY USE OF SINGLE LINE WITH SPECIFICATION THAT ARCHIPELAGIC PASSAGE COULD NOT BE EXERCISED BEYOND CERTAIN NUMBER OF MILES FROM LINE ON EITHER SIDE. INITIAL GOI REACTION WAS THAT THIS WOULD NOT SATISFY

PRESENT OBJECTIVE OF ELIMINATING DISTANCE SPECIFICATIONS OF BREADTH OF SEA LANE, BUT OVERALL THEY APPEARED NONCOMMITTAL.

6. ARCHIPELAGO: OVERFLIGHTS. SUDARMONO INDICATED THAT GOI CIVIL AVIATION AUTHORITIES HAVE DIFFICULTY WITH APPLYING RIGHT OF OVERFLIGHT TO CIVIL AIRCRAFT, BECAUSE THIS WEAKENS INDONESIAN ABILITY TO NEGOTIATE RIGHT OF OVERFLIGHT OF OTHER COUNTRIES. WHILE THIS OF COURSE REFLECTS MAJOR DIFFERENCE OF PERSPECTIVE REGARDING NATURE OF ARCHIPELAGO SETTLEMENT, WE CHOSE TO DEAL WITH IT AS A TECHNICAL PROBLEM OF CIVIL AVIATION AND NOT FORCE A DOCTRINAL DISPUTE BETWEEN US. SUDARMONO SPECIFIED THE NEXT DAY THAT HIS PROBLEM WAS WITH SCHEDULED CIVIL AVIATION FLIGHTS, CLEARLY IMPLYING THAT THERE WAS LESS DIFFICULTY WITH NON-SCHEDULED FLIGHTS. IT IS NOT RPT NOT CLEAR WHETHER GOI IS SIMPLY CONCERNED ABOUT RECIPROCITY, OR WHETHER ITS REAL OBJECTIVE IS TO USE ITS GEOGRAPHIC POSITION TO BRING PRESSURE ON LARGE NUMBER OF STATES INTERESTED IN OVERFLYING INDONESIA TO AND FROM AUSTRALIA (AND IN SOME CASES ON EXISTING ROUTES TO AND FROM MALAYSIA AND SINGAPORE). SUDARMONO SAID IN CONFIDENCE GOI PROBLEMS WERE WITH SINGAPORE, BURMA AND ITALY. WHILE DJALAL WISHED SPECIFIC CLAUSE EXCLUDING CIVIL AVIATION FROM THE ARTICLES, TONE OF CONVERSATION INDICATED POSSIBILITY OF INTRODUCING REFERENCE TO RECIPROCITY ON SCHEDULED CIVIL AVIATION AS POSSIBLE SOLUTION, OR AT LEAST AS MEANS OF SMOKING OUT REAL INDONESIAN INTENTIONS. WE SAID THAT THE PROBLEM WOULD HAVE TO BE REVIEWED WITH OUR CIVIL AVIATION EXPERTS IN WASHINGTON.

7. WARSHIPS: IT WOULD APPEAR THAT SUDARMONO IS SATISFIED THAT AS A PRACTICAL MATTER WARSHIPS ARE GOING TO USE THE SEA LANES IN ANY EVENT BECAUSE OF THEIR PRACTICALITY AND THE GREATER OPERATIONAL FLEXIBILITY OF ARCHIPELAGIC PASSAGE (E.G. AIR COVER). MOCHTAR AND DJALAL WOULD PREFER SPECIFIC LANGUAGE
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TO THIS EFFECT. WE OF COURSE REITERATED OUR DIFFICULTIES IN DOING SO.

8. ARCHIPELAGO: OTHER MATTERS. MOCHTAR STRONGLY PREFERS TO AVOID ANY CROSS REFERENCES BETWEEN ARCHIPELAGO ARTICLES AND STRAITS ARTICLES "EVEN IF THEY SAY THE SAME THING." THIS WOULD APPEAR TO BE A DRAFTING PROBLEM ONLY. DJALAL INDICATED SIMILAR DIFFICULTY WITH THE PRECISE CROSS REFERENCE TO INNOCENT PASSAGE ARTICLES. WE PROPOSED CHANGING DEFINITION OF ARCHIPELAGIC PASSAGE TO CONFORM TO DEFINITION OF TRANSIT PASSAGE IN STRAITS. DJALAL BALKED AT USING THE WORD "FREEDOM." WE OF COURSE INDICATED THAT UNLESS THE WORD "FREEDOM" WERE SUBSTITUTED FOR "RIGHTS," THE TERM "IN THE NORMAL NODE" COULD NOT BE DELETED. SUDARMONO SHOWED IRRITATION AT DJALAL'S CHALLENGE OF WHAT HE APPARENTLY REGARDED AS ALREADY AGREED IN

CONCEPT. DJALAL ALSO RAISED ISSUE OF SPECIAL RULES FOR TANKERS AND NUCLEAR SHIPS, WHICH WE RESISTED. DJALAL CHALLENGED REQUIREMENT OF IMCO APPROVAL OF SEA LANES AND TRAFFIC OPERATION Schemes AND MIGHT REVIVE ISSUE. GOI WISHES SOME DRAFTING AMENDMENTS TO MAKE CLEAR THAT RESOURCE EXPLOITATION CAN TAKE PLACE IN SEA LANES AND THAT THERE IS NO POSSIBLE IMPLICATION THAT OVERFLIGHT RIGHTS APPLY OVER LAND.

9. STRAITS: MOCHTAR RESPONDED TO OUR INQUIRIES REGARDING STRAITS BY CHARGE THAT MALAYSIA HAS PULLED THE RUG OUT FROM UNDER INDONESIA BY ITS DRAMATIC REVERSAL ON THE STRAITS ISSUE. (DEPARTMENT WILL RECALL THAT UNTIL GOI HAS MAINTAINED THAT STRAITS PROBLEM WAS ONE OF SATISFYING MALAYSIA.) HE THEN ATTACKED JAPANESE FOR LACK OF COOPERATION ON SOLVING TANKER PROBLEM IN MALACCA STRAITS. HE INDICATED THAT GOI WAS PREPARED TO COOPERATE IN CONSTRUCTION OF OIL DEPOT AT LOMBOK, AND THEREFORE EXPECTED QUID PRO QUO FROM JAPANESE ON MALACCA, SINCE THEY WOULD BE DIVERTING SOME TANKERS TO LOMBOK ANYWAY. (COMMENT: JAPANESE EMBASSY HERE HAS INDICATED TO AMEMBASSY JAKARTA THAT GOJ IS RECONSIDERING ITS DESIRE TO CONSTRUCT OIL DEPOT NEAR LOMBOK.) MOCHTAR ADDED THAT SINGAPORE FEAR OF LOSING BUSINESS BY DIVERTING TRAFFIC AWAY FROM MALACCA UNJUSTIFIED BECAUSE THE BIG TANKERS DO NOT STOP ANYWAY.

10. COORDINATION WITH AUSTRALIA: REQUEST DEPT AUTHORIZE
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AMEMBASSY CANBERRA TO RAISE CIVIL AVIATION PROBLEM WITH GOA AND ASK FOR THEIR VIEWS, AS THEY WOULD BE DIRECTLY AFFECTED. HOWEVER, WE BELIEVE EMBASSY SHOULD OBTAIN ASSURANCE THAT AUSTRALIA WILL NOT RPT NOT REFER TO USG BRIEFING IF ITS RAISES ISSUE WITH GOI; GOA HAS BASIS FOR RAISING IT BY REFERRING TO PUBLIC STATEMENT MADE BY INDONESIANS AT KUALA LUMPUR AALCC MEETING, WHICH LAUTERPACHT

ATTENDING. IIFYI. OXMAN MAY RAISE ISSUE AGAIN WITH LAUTERPACHT JULY 2 IN KUALA LUMPUR, BUT LAUTERPACHT HAS NOT BEEN DIRECTLY INVOLVED IN ARCHIPELAGO PROBLEMS TO OUR KNOWLEDGE, AND IN ANY EVENT THERE MAY NOT BE SUITABLE OCCASION TO DISCUSS MATTER PRIVATELY. END FYI.

11. FURTHER MEETINGS. SUDARMONO RAISED QUESTION OF FURTHER DISCUSSIONS AND AGREEMENT ON TEXT. WE SAID WE WOULD BE HAPPY TO MEET IN WASHINGTON OR NEW YORK IMMEDIATELY PRIOR TO OR AT START OF SUMMER SESSION. SUDARMONO SAID GOI WOULD CONTACT US THROUGH DIPLOMATIC CHANNELS. MOCHTAR PLANNING TRIP TO MANILA SOON, AND "WILL TRY TO BRING PHILIPPINES AROUND." SUDARMONO DID NOT APPEAR OPTIMISTIC AT PROSPECTS.

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